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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,741	09/29/2003	Atsushi Mizutome	03500.017621.	6742

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FITZPATRICK CELLA HARPER & SCINTO  
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NEW YORK, NY 10112

EXAMINER
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LUONG, ALAN H

ART UNIT	PAPER NUMBER
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2427

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02/10/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/671,741	<b>Applicant(s)</b> MIZUTOME ET AL.	
	<b>Examiner</b> ALAN LUONG	<b>Art Unit</b> 2427	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 48 and 50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 48 and 50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

The Art unit is changed into 2427.

Claims 48 and 50 has been amended; claims 42-47 and 49 are canceled. Therefore, claims 48 and 50 are pending in this application.

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Dec 04, 2008, has been entered.

### ***Claim Objections***

2. Claim 50 is objected to because of the following informalities: At line 11 of claim cited "by the receiving unit". It should be cited "by the **first** receiving unit." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claim 48** is rejected under 35 U.S.C. 103(a) as being unpatentable over Cuccia (US Patent 6,337,719); in view of Mitchell (US 2002/0162121)

**Regarding claim 48: Fig. 1 of Cuccia** illustrates a receiving apparatus connectable to an internet [111], said apparatus comprising:

**a receiving unit** includes tuner [103] **for receiving a streaming content** (i.e. each transport stream contains video, audio and additional data) **(Cuccia, col. 3 lines 23-41)**

Fig. 1 of Cuccia also illustrates **a decoder** (i.e. subsystem includes tuner 103 and demultiplexer 123 under controlled by microprocessor 118) **for decode processing the streaming content** outputting to [104] **so as to be displayed on a display screen [108]; (Cuccia, col. 3 lines 55-64).**

**a power source [109] for supplying a power at least to the decoder** by switching means [115] **(Cuccia, col. 3 lines 42-54)**

**storage [120] for storing the streaming content** (i.e. EPG information) **received by the receiving unit; (Cuccia, col. 3 line 55 to col. 4 line 20);**

Referring to Fig. 1; Cuccia discloses **an operation unit [102]** includes [103, 118, 119, 120 and 123], **for receiving an operation of turning off and turning on the power source [109]** by switching means [115] **(Cuccia, col. 3 lines 42-54)**

**a control unit [118] for (1) controlling: responsive to the receiving by the operation unit of the operation of turning off the power source** (i.e. TV set in stand by mode), and communicating with [104] **to stop the displaying of the streaming**

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**content on the display screen [108] and tuner [103] starts scanning EPG information from transport stream , of which displaying is stopped, so as to receive the streaming content by the receiving unit and to store the streaming content in the storage [120], (Cuccia, col. 3 line 65 to col. 4 line 20) and**

(2) Cuccia discloses "Another signal from the remote control might be dedicated to initiate the stand-by mode again, switching off the power supply to the signal processor 104 and the screen 108 (streaming content stops display), but preserving the power supply to the remote control unit 110. The power supply to the group 102 is not affected by the stand-by mode (so microprocessor 118 still control receiver), but preserved all the time". (col. 4, lines 5-9), the micro processor 118 checks whether the TV-set is in stand-by mode (i.e. tuner is not used), or whether the signal processing means 104 are processing signals from other sources than the tuner 103 (i.e. TV program or pictures from camera etc.); Tuner is free to scan to extract EPG information from stream signal storing in storage means [120] (col. 4, lines 14-24) Upon a predetermined user command for initializing stand by mode (user sends command from remote control to control microprocessor 118 to executes the signal processing means 104 are processing signals from tuner 103 but not from external input 117), the compound EPG is retrieved from the storage means 120 and displayed on the screen 108. (col. 4, lines 40-52) that means "displaying EPG information on TV display when display mode is not available for display TV program upon a predetermined user command in stand by mode" meets the limitation of "**controlling by [118] , responsive to the receiving by the operation unit of the operation of turning on the power source** (by user

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command from remote control), **to read out the streaming content from the storage [120] and to start the displaying of the streaming content on the display screen [108].**

However, Cuccia is silent to “an access through the internet to a URL of the streaming content”;

In an analogous art directed toward a similar problem namely improving the results from an access through the internet to a URL of the streaming content; Mitchell discloses Remote device [204] includes receiver [226] as a receiving unit **for receiving a streaming content** as supplement content (Mitchell, ¶0031 lines 1-7), **by an access through an internet to a URL of the streaming content (¶0033 lines 1-4).** Therefore, at the time of the invention was made, it would have been obvious to one having ordinary skill in the art to combine a TV set receiver unit of Cuccia with an access the streaming content through the internet to a URL address as taught by Mitchell, in order to provide a programming-related or non-programming-related content in a particular channel that the viewer could watch that channel when the content is made available. (¶0009)

5. **Claim 50** is rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell (US 2002/0162121); in view of Satake et al.(US 2001/0035917)

**Regarding claim 50:** Figs. 2 of Mitchell illustrates a receiving apparatus [200] comprising:

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Remote device [204] includes receiver [226] as a **first receiving unit for receiving a streaming content** as supplement content (Mitchell, ¶0031 lines 1-7), **by an access through an internet to a URL of the streaming content** (¶0033 lines 1-4); and STB [102] includes converter [206] as a **second receiving unit for receiving a television broadcast program transmitted through a broadcast signal** from headend 104; (Mitchell, ¶0037 lines 1-4).

Fig. 4 of Mitchell depicts a **storage [410] for storing the streaming content received by the first receiving unit [204]** (the remote device 204 may include a machine-readable storage medium, such as a digital storage device 410 for storage of network address information, supplement content, video/audio information, and the like)(**Mitchell, ¶0054**).

**access the URL linked to the streaming content, of which displaying is stopped, so as to receive the streaming content by the receiving unit,** (Display buttons 232 may place the remote display device 220 in an "on," " off," or "standby" setting, **of which displaying is stopped** or may be used to set **the receiving unit 204** in a "receive" mode **to access the URL linked to the streaming content** from a network, such as from the Internet 108 via servers. (**Mitchell, ¶0044**) **and to store the streaming content in the storage [410]** (**Mitchell, ¶0054**).

However, Mitchell is silent with "an operation unit for receiving an operation of switching from a displaying of the streaming content on a display screen to a displaying of the television broadcast program on the display screen and an operation of switching from

the displaying of the television broadcast program on the display screen to the displaying of the streaming content on the display screen.

In an analogous art directed toward a similar problem namely improving the results from an operation unit for receiving an operation of switching. Fig. 4 of Satake illustrates a process of display apparatus ([1] of Fig. 1) includes “**an operation unit ([7] of fig. 1) for receiving an operation of switching ([5] of Fig. 1) from a displaying of the streaming content [12] on a display screen [9] (as shown in Fig. 3) to a displaying of the television broadcast program [10] on the display screen (as shown in Fig. 2) and an operation of switching [5] of Fig. 1 from (ST2-ST3) the displaying of the television broadcast program on the display screen to (ST4-ST5) the displaying of the streaming content on the display screen (ST6) in a predetermined duration based on setting operation of viewers**”. (Satake, ¶0026, ¶0034-¶0036).

Fig. 1 of Satake also depicts **control unit [3] for**

**(1) controlling, responsive to the receiving by the operation unit [7] of the operation of the switching from the displaying of the streaming content [12] on the display screen [9] (during the predetermined duration based on setting from viewer when power switch [5] of display apparatus [1] turns off) to the displaying of the television broadcast program [10] on the display screen [9] (when power switch [5] of display apparatus [1] turns on), to stop the displaying of the streaming content on the display screen, (¶0035-¶0036) and**



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**(2) controlling, responsive to the receiving by the operation unit of the operation of switching** (when power switch [5] of display apparatus [1] turns on) **from the displaying of the television broadcast program [10] on the display screen [9] to power switch [5] of display apparatus [1] turns off for the displaying of the streaming content [12] on the display screen [9], to read out the streaming content from the storage and to start the displaying of the streaming content on the display screen** (Simultaneously, a controller 3 of the display apparatus 1 shown in FIG. 1 reads data related to communicative information stored in a memory unit 13, in accordance with the read-out data related to communicative information, the controller 3 causes the display unit 9 to display advertising contents 12 shown in FIG. 3) (**¶0029, ¶0034-¶0035**)

Therefore, at the time of the invention was made, it would have been obvious to one having ordinary skill in the art to modify Mitchell reference with a display apparatus as taught by Satake, in order to provide a switching circuit for user to enjoy TV program when such an undesired commercial advertising program is broadcast at the beginning or on the way of proceeding with a regular TV program as cited above, since any of TV viewers is obliged to wait for resumed broadcasting of the desired program for a certain duration, and yet, since an enjoyable program is interrupted, normally, TV viewers are inclined to change TV channels to avoid watching undesired commercial advertising programs. This in turn results in the lowered effect of publicity via broadcast commercial advertising programs (**¶0005**).

***Response to Arguments***

6. Applicant's arguments with respect to claims 48 and 50 have been considered but are moot in view of the new ground(s) of rejection.

Applicants respectfully submit that Cuccia discloses, e.g., performing scanning when the receiver is not in use, e.g., during stand-by mode (in particular, Cuccia discloses, e.g., updating the EPG information during the stand-by mode, and displaying the updated EPG information (e.g., col. 3, line 42 through col. 4, line 54). Examiner respectfully disagrees. Cuccia discloses "Another signal from the remote control might be dedicated to initiate the stand-by mode again, switching off the power supply to the signal processor 104 and the screen 108 (streaming content stops display), but preserving the power supply to the remote control unit 110. The power supply to the group 102 is not affected by the stand-by mode (so microprocessor 118 still control receiver), but preserved all the time". (col. 4, lines 5-9), the micro processor 118 checks whether the TV-set is in stand-by mode (i.e. tuner is not used), or whether the signal processing means 104 are processing signals from other sources than the tuner 103 (i.e. TV program or pictures from camera etc.); Tuner is free to scan to extract EPG information from stream signal storing in storage means [120] (col. 4, lines 14-24) Upon a predetermined user command for initializing stand by mode (user sends command from remote control to control microprocessor 118 to executes the signal processing means 104 are processing signals from tuner 103 but not from external input 117), the compound EPG is retrieved from the storage means 120 and displayed on the screen 108. (col. 4, lines 40-52) that means "displaying EPG information on TV display when

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display mode is not available for display TV program upon a predetermined user command in stand by mode” meets the limitation of “**controlling** by [118] , **responsive to the receiving by the operation unit of the operation of turning on the power source** (by user command from remote control), **to read out the streaming content from the storage [120] and to start the displaying of the streaming content on the display screen [108]**.”

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALAN LUONG whose telephone number is (571)270-5091. The examiner can normally be reached on Mon.-Thurs., 8:00am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/A. L./  
Examiner, Art Unit 2427  
Jan 23, 2009

/Scott Beliveau/  
Supervisory Patent Examiner, Art Unit 2427